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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92049013
Party	Defendant INA GARTEN LLC
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Date	10/15/2008
Attachments	Answer to Amended Petition for Cancellation (F0361314).PDF ( 4 pages ) (77622 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Registration No. 2,892,226  
Mark: BAREFOOT CONTESSA  
Registered: October 12, 2004

CONTESSA PREMIUM FOODS, INC.,

Petitioner,

-against-

INA GARTEN LLC,

Registrant.

Cancellation No. 92049013

**REGISTRANT'S ANSWER TO AMENDED PETITION FOR CANCELLATION**

Registrant Ina Garten LLC ("Registrant"), a New York company having a place of business at 46 Newtown Lane, East Hampton, New York 11937, as and for its answer to Petitioner's Amended Petition for Cancellation, by and through its counsel Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. Registrant admits the allegations in paragraph 1 of the Amended Petition for Cancellation (the "Amended Petition").
2. Registrant denies the allegations in paragraph 2 of the Amended Petition.
3. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its Registration No. 2,892,226 (the "'226 Registration") at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Amended Petition.

4. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in the '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Amended Petition.

5. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Amended Petition.

6. Registrant denies the allegation that Registrant was not using the BAREFOOT CONTESSA mark in connection with the goods identified in its '226 Registration at the time of the filing of the application that resulted in the '226 Registration, and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Amended Petition.

7. Registrant denies the allegations contained in Paragraph 7 of the Amended Petition.

8. Registrant denies the allegations contained in Paragraph 8 of the Amended Petition.

9. Registrant denies knowledge or information sufficient to form a belief as to the truth of the same allegations contained in Paragraph 9 of the Amended Petition, and denies all the remaining allegations in Paragraph 9.

10. Registrant admits that it has made use of the BAREFOOT CONTESSA mark in

connection with the goods that it has sold and transported in the United States, including the goods identified in the '226 Registration, but denies the remaining allegations in Paragraph 10 of the Amended Petition.

11. Registrant denies the allegations contained in Paragraph 11 of the Amended Petition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. Petitioner fails to state a claim for which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. Petitioner's claims are barred by the doctrines of laches, acquiescence and estoppel.

WHEREFORE Registrant requests that the Amended Petition be dismissed with prejudice in its entirety and that the Trademark Trial and Appeal Board grant to Registrant such other and further relief as it deems just and proper.

Dated: New York, New York  
October 15, 2008

FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.

By: 

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Attorneys for Registrant  
Ina Garten LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the REGISTRANT'S ANSWER TO AMENDED  
PETITION FOR CANCELLATION was sent by prepaid first-class mail this 15<sup>th</sup> day of October,  
2008 to:

Gary J. Nelson, Esq.  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

  
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John P. Margiotta